

**New Jersey Cemetery Board
Public Session Minutes
June 10, 2004**

A regular meeting of the New Jersey Cemetery Board was held at 124 Halsey Street, Newark, N.J., on the sixth floor, on Thursday, June 10, 2004. The meeting was convened in accordance with the schedule filed with the Secretary of State and was conducted in accordance with the provisions of the Open Public Meeting Act, Chapter 321, P.L.. Notice of the meeting was prepared in the office of the Board and mailed out to the Secretary of State, the Attorney General, the Star Ledger, the Record, the Press of Atlantic City, the Asbury Park Press and the Trenton Times. Board Chairman Frank J. DeGeeter, Jr. called the meeting to order at 9:35 A.M. A roll call was taken and the following attendance of Board members was recorded for these minutes:

Marion Brozowski Present
Frank J. DeGeeter, Jr. Present
Paul M. Desbiens Present
Stephen F. Hehl Present
June Nikola Present
William Nichols Present
Marianne Panico Present
Karen Walsh Pappas Absent

Also in attendance were: Dianne L Tamaroglio, Executive Director for the New Jersey Cemetery Board and Deputy Attorney General John Hugelmeyer.

I. APPROVAL OF PUBLIC SESSION MEETING MINUTES OF MAY 13, 2004

A motion was made by Marion Brozowski and seconded by Paul M. Desbiens to approve the Public Session Minutes of May 13, 2004 as amended. A vote was taken and the motion was approved by a unanimous vote.

II. DISCUSSION WITH CHARLES MANNING, REGULATORY ANALYST, DIVISION OF CONSUMER AFFAIRS 9:30 AM Re: N.J.A.C. 13:44J-8.4 & N.J.A.C. 13:44J-14.3

Charles Manning, Regulatory Analyst, Division of Consumer Affairs met with the Board to discuss the revision of N.J.A.C.13:44J-8.4 & N.J.A.C. 13:44J-14.3. The Board had some concerns with the revised regulation, especially, N.J.A.C.13:44J-14.3(f), which would require other entities, such as construction companies, to indemnify the cemetery company with respect to any refunds made to consumers. The Board members very strongly believe that construction companies would be very leery to agree to this and it would therefore be very difficult to get any construction company to build the mausoleums. The Board members are going to inquire as to how other states handle the timeliness of construction completion of mausoleums and consumer refunds. Larry Nikola, President, Memorial Properties who was in attendance today, has offered to contact the ICFA for information pertaining to the length of time for the completion of the construction of mausoleums other states have before a refund is offered to consumers. This regulation will be brought back to the July 8, 2004 Board meeting for further discussion.

III. OLD BUSINESS

A. Advisement that the County of Ocean is taking a portion of cemetery property Re: Greenwood Cemetery (CA #370)

This matter will be held over.

B. Requesting approval for credit taken on Maintenance & Preservation Trust Fund

Re: Heavenly Rest Memorial Park (CA #304)

George Miller, Jr., attorney representing Heavenly Rest Memorial Park has advised the Board that Heavenly Rest has established its Maintenance & Preservation Trust Fund in an irrevocable trust with Merrill Lynch. Mr. Miller also provided the Board with a copy of the account instructions from Merrill Lynch evidencing the creation of such account. The Board will ask that the cemetery provide the Board with a copy of its first statement from Merrill Lynch to confirm the Trust Fund's establishment. This matter will be carried over.

C. Request for approval of amended easement agreement

Re: Hillside Cemetery Company (CA #398)

D.F. Moore Craig, attorney representing Hillside Cemetery has advised the Board that to date there has been no agreement reached with the Romano Estate regarding the revision of the Right of Way Agreement to meet the concerns raised by the Board. If no agreement is reached, it may be necessary for Hillside Cemetery to go back to Court, in an effort to get the matter resolved. Mr. Craig further advises that there are other developments in the geographic area that may have an impact on the easement question. One of the adjacent land owners, Kaypark Homes, Inc., has filed an application for a permit or approval to the New Jersey Department of Environmental protection under the Freshwater Wetlands Protection Act rules. The approval being sought is a Letter of Interpretation establishing the official boundary line of any regulated freshwater wetlands (if any), found on the Kaypark Homes property. It is Mr. Craig's understanding that this is a prelude to action by Kaypark to develop its property and if such development does occur, it may involve the Romano Estate property, as well. Hillside Cemetery is attempting to find out more about the potential Kaypark Development and its impact, if any, on the Romano Estate property with the possible resulting impact of the need (or lack thereof) of the Romano Estate to use Hillside Cemetery roadway as a right-of-way access. Mr. Craig will advise the Board of any new developments in this matter. This matter will be carried over.

D. Requesting Board approval for sale of cemetery property

Re: Eglington Cemetery (CA #98)

Peter Platten, attorney representing Eglington Cemetery Company, Pro Hac Vice, has provided the Board with a revised Consent Order executed by Jesse R. Pebley & Mr. Platten regarding the deposit of \$16,000.00 into the Gates of Heaven Cemetery Co.'s Maintenance & Preservation Trust Fund. Mr. Platten is seeking Board approval for the Consent Order. Mr. Platten advises the Board that if the Agreement of Sale with Atlantic Five Development Co. never closes for whatever reason, then there will be no proceeds from which the \$16,000.00 deposit to the Gate's of Heaven Cemetery Co.'s Maintenance & Preservation can or will be made by Eglington Cemetery Company. Should this occur, the Board will be so advised. If the Agreement of Sale does close, the deposit will be made as evidence of which Mr. Platten will submit to the Board, a copy of the Settlement Sheets reflecting the Title Company's check for \$16,000.00 issued to the Gates of Heaven Cemetery Co.'s Maintenance and Preservation Trust Fund. The Board approved the Consent Order and it was signed by Board Chairman Frank J, DeGeeter, Jr. DAG John Hugelmeier will prepare a cover letter and forward the signed Consent order to Mr. Platten. This matter is now closed. It will be brought back to the Board upon receipt of confirmation of the deposit into the Trust Fund or upon being advised that the sale did not occur.

E. Inquiry regarding the cremation of non-Catholics

Re: Holy Cross Burial Park, East Brunswick, NJ

This matter will be held over pending receipt of a response from Russell B. Demkovitz, Director, Diocese of Metuchen.

F. Inquiry from Thomas E. Stover, Esquire

Re: Mt. Hermon Cemetery Association a/k/a Green's Chapel Cemetery

Having heard nothing further from Thomas E. Stover, Esquire, this matter will be closed and removed from

future Board meeting agendas.

G. Application for a Certificate of Authority

Re: Zion Cemetery Association

This matter will be held over pending receipt of the confirmation of the establishment of the Zion Cemetery's Maintenance & Preservation Trust Fund in an Irrevocable Trust Fund.

H. Surrender of Certificate of Authority and dissolution of cemetery

Re: Trinity Cemetery Association (CA #396)

June Nikola was recused from this matter and moved away from the table.

Larry Nikola, President, Memorial Properties has advised the Board that a contract has been signed for the sale of the property upon which Trinity Cemetery was to be built. This matter will be carried over.

I. Inquiry regarding Maintenance & Preservation Trust Funds

Re: Smith Barney

This matter will be carried over allowing more research into the matter.

J. Titusville Methodist Church Cemetery (CA #259)

Re: Exemption from New Jersey Cemetery Law

This matter will be carried over, pending receipt of the requested documentation from the cemetery.

K. Requesting interpretation of New Jersey Cemetery Act, 2003

Re: Stanhope Cemetery (CA #178)

The Board has not yet received a response from Paul Fiorillo, Stanhope Cemetery to the Board's inquiries. A follow up phone call to Mr. Fiorillo will be made. This matter will be carried over.

L. Inquiry from Consumer Martin Goldstein

Re: Cedar Park Cemetery (CA #13)

Herbert B. Klapper, President, Cedar Park Cemetery has responded to the Board's inquiry regarding the cemetery's price list. Upon review of Mr. Klapper's response, everything appears to be in order. A copy of Mr. Klapper's response will be sent to Martin Goldstein, the individual who questioned the cemetery's fees for services. This matter is closed and removed from future Board meeting agendas.

IV. NEW BUSINESS

A. Bulk Sale Approvals

**1. Mount Moriah Cemetery (CA #36), Fairview, NJ to
Congregation Tree of Life, Brooklyn, NY**

Executive Director Dianne L. Tamaroglio approved the bulk sale of 175 graves for \$40,000.00 (\$228.57 per grave). The required amount will be deposited into the Maintenance & Preservation Trust Fund of Mount Moriah Cemetery.

**2. Osage Cemetery Association, d/b/a Frost Woods Memorial Park, (CA #381), East Brunswick, NJ to
Hong Luck Association, Inc., d/b/a Fook Hong Luck Association, Inc., New York, NY**

Executive Director Dianne L. Tamaroglio approved the bulk sale of 338 graves for \$236,600.00 (\$700.00 per

grave). The required amount will be deposited into the Maintenance & Preservation Trust Fund of Osage Cemetery Association.

**B. Requesting waiver of \$75.00 Filing Fee for Annual Report for 2003
Re: The Presbyterian Church Cemetery (CA #208)**

The Presbyterian Church Cemetery is requesting a waiver of the \$75.00 Filing Fee for its Annual Report for 2003 due to the financial condition of the cemetery. A motion was made by Marion Brozowski and seconded by Stephen F. Hehl to approve the requested waiver. A vote was taken and the motion was passed by a unanimous vote.

C. Approval for Executive Director to attend the North American Cemetery Regulators Association's Conference August 7 - 11, 2004

A motion was made by Paul M. Desbiens and seconded by Marianne Panico for Executive Director Dianne L. Tamaroglio to attend the North American Cemetery Regulators Association Annual Conference, August 7, 2004 thru August 11, 2004 in Baltimore, Maryland. A vote was taken and the motion was passed by a unanimous vote.

**D. Request for Administrative Code to be amended
Re: Rural Hill Cemetery (CA #242)**

Carlton C. Durling, Trustee for Rural Hill Cemetery has written to the Board petitioning the Board to attempt to have the Board's Statute amended by the State Legislature to increase the amount that the Maintenance & Preservation Trust Fund must reach before requiring that it be held in an Irrevocable Trust Account. Mr. Durling further advises that it is virtually impossible to get a bank to handle any accounts under \$500,000.00. The Board will ask that Burt Liebman, Legislative Liaison, Division of Consumer Affairs, to appear before the Board to explain the procedure to follow for amending passed legislation. Mr. Durling will be advised that the Board is aware of his concerns and that we are looking into the matter. This matter will be carried over.

**E. Request for approval of receiver fees
Re: Richard L. Berry, Receiver, Evergreen Cemetery (CA #72)**

Richard L. Berry, Receiver for Evergreen Cemetery has provided the Board with a copy of a proposed order to submit to the court for the payment of his receiver fees for the period from September 15, 2001 through February 28, 2004. Mr. Berry has asked that the Board review his proposed application to determine if the fees requested appear to be appropriate. A motion was made by Marion Brozowski and seconded by June Nikola to approve Mr. Berry's application to the Court for payment of his receiver fees. This matter is closed and removed from future Board meeting agendas.

**F. Correspondence from Rev. June D. Sievers
Re: Pleasant Grove Cemetery**

Rev. June D. Sievers, Pleasant Grove Presbyterian Church has written to the Board regarding the conditions of Pleasant Grove Cemetery. Pleasant Grove Cemetery is not under the jurisdiction of this Board. The cemetery is adjacent to the property owned by the congregation. Rev. Sievers believes that the cemetery was once controlled by the congregation but has been privately run for many years. Rev. Sievers advises that the Church receives many phone calls from irate cemetery plot owners complaining about the conditions of the cemetery. Rev. Sievers advises that the cemetery is currently operated by John Sliker. The Board will ask Reverend Sievers to expand upon what is meant by the cemetery is privately run. This matter will be carried over.

V. PUBLIC COMMENT

Leonard Auerbach, General Manager, Floral Park Cemetery, advises that the changes made in the cemetery law regarding the contributions to the Maintenance & Preservation Trust Fund are good changes and beneficial to the

Trust Funds.

VI. FOR YOUR INFORMATION

A. New Jersey State Board of Mortuary Science

Open Session Meeting Agenda-June 1, 2004

Open Session Meeting Minutes-March 2, 2004

Open Session Meeting Minutes-April 13, 2004

These matters were considered informational for the Board deeming no discussion or decision making.

B. Notification of Complaint for Declaratory Judgement Re: Eglington Cemetery, of Greenwich Township, Gloucester County, Woodbury Memorial Park, Inc., Gates of Heaven Cemetery Co. f/k/a/ Martin Luther King Memorial Gardens, and Hillcrest Memorial Park Association

This matter was moved to Executive Session for discussion and advice of counsel.

VII. ADJOURNMENT

A motion was made by Stephen F. Hehl and seconded by June Nikola to adjourn Public Session at 11:40 AM and move into Executive Session at 12:00 PM. A vote was taken and the motion was passed by a unanimous vote. The Board moved into Executive Session to discuss the following matters involving investigations, violations, and/or the Board's regulations:

1. Two (2) new matters or complaints filed with the Board which require review and recommendations in regard to investigation and/or actions.
2. Twenty two (22) matters where additional information has been submitted to the Board pending investigations.

The substance of these investigations shall remain confidential until disclosure is permitted by law. Board action arising from such discussions will be made public at such time official action is taken on these matters, if permitted by law.

Respectfully Submitted,

Dianne L. Tamaroglio
Executive Director